

**MENOMINEE TRIBAL LEGISLATURE – REGULAR
THURSDAY, FEBRUARY 3, 2011
TRIBAL OFFICE BOARDROOM
KESHENA, WI 54135
5:00 P.M.**

MEMBERS PRESENT:

Laurie A. Boivin, Tribal Chairwoman
Randal Chevalier
Lynnette A. Miller
Myrna R. Warrington
Lisa S. Waukau
Bruce J. Pecore
Kenneth A. Fish
David A. Miller
Rebecca D. Alegria

1. Call to Order – Roll Call.

Chairwoman Boivin called the meeting to order at 5:00 P.M. Roll call was taken and a quorum was present.

2. Menominee Prayer.

Legislator Waukau said the Menominee Prayer in the Menominee and English Language.

3. Proclamation Ceremonies for Honorable Legislator Kenneth A. Fish and Honorable Legislator Lynnette A. Miller.

Outgoing Honorable Legislator's Kenneth A. Fish and Lynnette A. Miller were both honored for their support and devotion to others who are in the forefront of leadership for the Tribe. For having played a vital role in Menominee history, with their crucial knowledge, understanding and wisdom that we as a society need to survive well into the twenty-first century while Vice-Chairman Randal Chevalier and Legislator Myrna Warrington bestowed upon them both a very special handmade Indian appliqué quilt. Chairwoman Boivin presented both of them with a signed proclamation in a wooden plaque with their terms of service embossed.

Honorable Legislator Kenneth A. Fish was recognized for his service to the Tribe from 1979, 2005 – 2010, and through February 8, 2011.

Legislator Fish thanked the members of the Legislature and the Menominee people for this celebration. He stated he felt he worked as hard as he could realizing that decisions made were difficult at times.

Honorable Legislator Lynnette A. Miller was recognized for her serve to the Tribe from 2008 – February 8, 2011.

Legislator Lynnette Miller thanked the members of the Legislature and stated that her three (3) years on the Legislature were very challenging for her at times, but most of all it was very rewarding to serve this Great Nation. She thanked those that supported her during this last election, but most of all she had a very special "Thank You" to Legislator Laurie Boivin and Legislator Myrna Warrington for helping her through the very difficult times. She gave a very special "Thank You" to her family who has supported her throughout her leadership.

The Legislature preceded the celebration with cake and refreshments while Legislator Fish and Legislator Lynnette Miller posed for photos with the Tribal Legislature, family members, and friends.

4. Public Comment Period.

Melissa Pitzl – Honoring a Legislator: She recognized and honored Legislator Kenneth Fish that served our Tribe selflessly, and has demonstrated the type of leadership that all of our Legislator's should follow to the Menominee Nation. He never made a decision based on whether or not he may lose a vote or a friend; he upheld his oath of office and his promise to the Menominee people to always protect their best interests. She proceeded to present him with gifts and a Menominee History guide that had his father's picture in it.

Legislator Fish was honored to have received the gifts presented to him by Melissa Pitzl.

5. Final Approval of Ordinance No. 10-35 Program Lease Request – Community Development.

MOTION BY REBECCA ALEGRIA FOR FINAL APPROVAL OF ORDINANCE NO. 10-35 PROGRAM LEASE REQUEST (COMMUNITY DEVELOPMENT DEPARTMENT). SECOND WAS MADE BY BRUCE PECORE. THE MOTION CARRIED: 9 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

6. 10-Day Waiver Request(s).

There was no 10-Day waiver request(s) made at this time.

7. Approval of LaMotte Lake Landing Use Agreement from April 15, 2011 – November 15, 2011.

Conservation Director, Walter Cox updated the Legislature with the LaMotte Lake Landing Use Agreement. Several years ago the property owners sold the land to non-Indians with no access to lodge their boats or jet skis. They came to the Tribe, but the Tribe could not allow them to put their boats in the water as that land was trust land. The Property Owners Association stated that if the Tribe didn't allow this agreement, that they were going to open up public land on their own that would allow anyone access to the lake. However, the LaMotte Lake Property Owners monitors the invasive species that may come in from outsiders. Director Cox stated it would be in the best interest of the Tribe to approve this landing use agreement.

MOTION BY REBECCA ALEGRIA TO APPROVE THE LAMOTTE LAKE LANDING USE AGREEMENT BETWEEN THE MENOMINEE INDIAN TRIBE OF WISCONSIN AND THE LAMOTTE LAKE PROPERTY OWNER'S ASSOCIATION, AND AUTHORIZE THE TRIBAL CHAIRPERSON TO SIGN AND DATE. (APRIL 15, 2011 TO NOVEMBER 15, 2011) SECOND WAS MADE BY LISA WAUKAU. THE MOTION CARRIED: 5 FOR, 2 OPPOSED (CHEVALIER & WARRINGTON), 1 ABSTENTION (D. MILLER), AND 0 ABSENT.

PLEASE NOTE: Legislator Warrington qualified her opposition as follows: *"It's a violation of the Constitution section XI, that says excepted unless specified persons who are not members of the Menominee Indian Tribe shall not be permitted to use tribal lands for any purpose. Also Mawaw Censeyiah is out there and I would not like to see any traffic or anything going on out there that would interfere or that would get in the way of the type of activities that are going on out there with the youth, because they're always doing different kinds of activities and that should specifically be just for them, and now all this other traffic going in and out and sometimes when you do this they start believing it's a right after all, and so what you got another group so what's going to be next? Push for more, give an arm, take a leg, and so I can't support it even though I know it's for a good cause."*

Legislator Pecore qualified his vote for the record as follows: *"I think this is in the best interest of the Tribe, and so I support it for all the reason that Walter (Conservation Director) had brought today. Also, as the Enforcement Resource and Protection Chair, they discussed this and Walt informed them that they're monitoring whose going out in that forests, and helping us as a matter of fact in a lot of cases, and so I'm for it. Although I would recommend not to use the word "LAMOTTE LANDING LAKE USE AGREEMENT" and strike it however we can."*

Legislator D. Miller qualified his abstention as follows: *"I just like to have had a little bit more information as to the legality of it, and as Mr. Pecore mentioned it may come up again under item 18."*

Legislator Chevalier qualified his opposition as follows: *"I believe that regardless whether it's in the best interest of the Tribe I believe that we have a Constitution that we have to uphold that we all swore to uphold, and that I believe that this motion directly violates the Constitution."*

Legislator Fish qualified his vote for the record as follows: *"I supported it because I think that we have to be a progressive Tribe and if anyone wants to look at the legalities then we need to look at the legalities of people crossing the land to go to our Casino because that's public access. So are we gonna shoot ourselves in the foot over some of these issues? I think that some are common sense issues, and this is a common sense issue!"*

8. Commentary Report on Ordinance 10-26 Menominee Preference in Contracting.

The Legislature was presented with the public hearing comments of October 21, 2010. Discussions were held regarding creating a TERO Ordinance that is a Native American initiative for all federally recognized Tribal members. The proposed Ordinance would not be based on the lowest bid percentage, but if a Native American comes within certain percentages of the bid then that qualified Native American is awarded the bid as long as a certain percentage of their employees are Native Americans.

9. Tribal Chairperson's Transition of Powers Report.

Per LRP Rule 7.01 (A) (B) Transition of Power, Chairwoman Boivin provided the Tribal Legislature with a full written report of all current, upcoming, and outstanding legislative business both in Committee, Litigation, and on the Legislative table.

10. Resolution No. 10- ____ Support of Application for Funding Under the HUD Rural Innovations Grant Program.

MOTION BY LISA WAUKAU TO APPROVE RESOLUTION NO. 10-79 SUPPORT OF APPLICATION FOR FUNDING UNDER THE HUD RURAL INNOVATIONS GRANT PROGRAM, DISPENSE WITH THE READING, AND AUTHORIZE THE CHAIRMAN TO SIGN. SECOND WAS MADE BY BRUCE PECORE. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

11. Other Business: Matters of an Immediate Nature that Cannot Wait Until the Next Meeting.

MOTION BY REBECCA ALEGRIA TO APPROVE AGENDA ITEM NUMBER 11 OTHER BUSINESS: MATTERS OF AN IMMEDIATE NATURE THAT CANNOT WAIT UNTIL THE NEXT MEETING: 1) SET DATE FOR A SPECIAL JOINT MEETING WITH MTE IN EXECUTIVE SESSION; & 2) ADD TO THE AGENDA IN EXECUTIVE SESSION (A) (4) BIA APPEAL. SECOND WAS MADE BY DAVID MILLER. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

1) Set Date for a Special Joint Meeting with MTE in Executive Session; &

This issue will be discussed in Executive Session.

2) Add to the Agenda in Executive Session (A) (4) BIA Appeal.

This issue will be discussed in Executive Session.

12. 1ST Consideration of Amendment to Ordinance No. 83-05 Comprehensive Land Use & Natural Resource Plan.

MOTION BY MYRNA WARRINGTON TO *TABLE* 1ST CONSIDERATION OF AMENDMENT TO ORDINANCE NO. 83-05 COMPREHENSIVE LAND USE & NATURAL RESOURCE PLAN. SECOND WAS MADE BY LYNNETTE MILLER. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

13. 1ST Consideration of Repeal of Tribal Ordinance No. 06-29 Communications Protocol.

MOTION BY MYRNA WARRINGTON TO *TABLE* 1ST CONSIDERATION OF REPEAL OF TRIBAL ORDINANCE NO. 06-29 COMMUNICATIONS PROTOCOL. SECOND WAS MADE BY LYNNETTE MILLER. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

14. 1ST Consideration of Ordinance No. 10-32 Alternate Sentencing for Veterans.

MOTION BY MYRNA WARRINGTON TO SEND ORDINANCE NO. 10-32 ALTERNATIVE SENTENCING FOR VETERANS BACK TO THE VETERAN'S AD-HOC COMMITTEE. SECOND WAS MADE BY RANDAL CHEVALIER. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0

ABSENT.

15. Final Approval of Amendment to Ordinance No. 10-20 FY' 2011 Tribal Budget.

MOTION BY BRUCE PECORE FOR FINAL APPROVAL OF AMENDMENT TO ORDINANCE NO. 10-20 FISCAL YEAR 2011 TRIBAL BUDGET. SECOND WAS MADE BY LISA WAUKAU. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

16. Final Approval of Amendment to Ordinance No. 10-33 FY' 2011 Special Appropriations.

MOTION BY LISA WAUKAU FOR FINAL APPROVAL OF AMENDMENT TO ORDINANCE NO. 10-33 FISCAL YEAR 2011 SPECIAL APPROPRIATIONS. SECOND WAS MADE BY KENNETH FISH. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

17. Final Approval of Ordinance No. 10-36 Menominee Nation Cemetery Ordinance.

MOTION BY RANDAL CHEVALIER TO TABLE ITEM # 17 (ORDINANCE NO. 10-36 MENOMINEE NATION CEMETERY ORDINANCE.) SECOND WAS MADE BY LYNNETTE MILLER. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

MOTION BY KENNETH FISH THAT THE CHAIR'S OFFICE DESIGNATE THE APPROPRIATE PARTIES TO LOOK INTO INCREASING THE BURIAL FUND BY THE AMOUNT OF THE BURIAL PLOT COST. SECOND WAS MADE BY LYNNETTE MILLER. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

18. Guidance on Implementation of Vote.

MOTION BY LYNNETTE MILLER TO TABLE UNTIL THE COURT RENDERS A DECISION. SECOND WAS MADE BY DAVID MILLER. THE MOTION CARRIED: 4 FOR, 3 OPPOSED (CHEVALIER, WARRINGTON, & WAUKAU), 1 ABSTENTION (PECORE), AND 0 ABSENT.

PLEASE NOTE: Legislator Chevalier qualified his opposition as follows: *"I believe that this is not following the will of the people. There was no time limit on Legislator (Lynnette) Miller's motion; there's no time limit on this motion, and that hearing can go on for months, and we should listen to what the people voted."*

Legislator Fish qualified his vote for the record as follows: *"it's to my understanding that we need to wait for a couple days to see what transpires. If nothing transpires then we need to put it back on the table and deal with it!"*

Legislator Warrington qualified her opposition as follows: *"Yes, I think we are being very negligent to our people who we have the majority vote of "NO," and we're not following through with that vote to make the plan in order to try to transition it."*

Legislator Waukau qualified her opposition as follows: *"we're going to have to deal with this sooner or later, and I'd prefer sooner rather than later."*

Legislator D. Miller qualified his vote for the record as follows: *"There has been an election, and the election impacted probably some of the decisions of this Legislature. We will have enough time, and the decision does not come down in a timely manner, and a few more extra days is not going to harm it that much as it already has been."*

19. Approval of Minutes: January 20, 2011 – Regular.

MOTION BY LYNNETTE MILLER FOR APPROVAL OF THE REGULAR MEETING MINUTES OF THE MENOMINEE TRIBAL LEGISLATURE OF JANUARY 20, 2011 WITH ANY CORRECTIONS. SECOND WAS MADE BY RANDAL CHEVALIER. THE MOTION CARRIED: 6 FOR, 0 OPPOSED, 2 ABSTENTIONS (ALEGRIA & CHEVALIER), AND 0 ABSENT.

PLEASE NOTE: Legislator Alegria qualified her abstention as follows: “due to absence.”

Legislator Chevalier qualified his abstention as follows: “due to absence.”

20. Legislative Time on Task Reports.

There was no Legislative Time on Task Reports to be discussed at this time.

21. Travel Authorization Requests.

MOTION BY MYRNA WARRINGTON TO APPROVE THE TRAVEL AUTHORIZATION REQUESTS FOR 1, 2, 3, 4, & 5, AND THE NAMES BE APPOINTED LATER. (1 THE WISCONSIN INDIAN EDUCATION ASSOCIATION LEGISLATIVE BREAKFAST ON FEBRUARY 23, 2011 IN MADISON, WI FOR ANY INTERESTED LEGISLATIVE MEMBER CURRENTLY SERVING ON THE LABOR, EDUCATION, AND TRAINING COMMITTEE; 2) THE 2011 NIGA WINTER LEGISLATIVE SUMMIT ON MARCH 2 – 3, 2011 IN WASHINGTON, DC FOR THE NEWLY APPOINTED CHAIRPERSON; 3) THE 44TH ANNUAL GOVERNOR’S CONFERENCE ON HOMELAND SECURITY AND EMERGENCY MANAGEMENT ON MARCH 3 – 4, 2011 IN MIDDLETON, WI FOR THE NEWLY APPOINTED EMERGENCY GOVERNMENT LEGISLATOR; 4) GLITC BOARD OF DIRECTOR’S MONTHLY MEETING ON MARCH 7, 2011 IN MADISON, WI FOR THE NEWLY APPOINTED CHAIRPERSON; & 5) THE STATE OF THE TRIBE’S ADDRESS ON MARCH 8, 2011 IN MADISON, WI FOR THE NEWLY APPOINTED CHAIRPERSON). SECOND WAS MADE BY DAVID MILLER. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

22. Committee Reports and Recommendations:

- a. **Enforcement & Resource Protection Committee of January 18, 2011.**
 - i. **Request Approval to Authorize a Variance to Ordinance 00-14.**

MOTION BY BRUCE PECORE TO CONCUR WITH THE ENFORCEMENT AND RESOURCE PROTECTION COMMITTEE RECOMMENDATIONS OF JANUARY 18, 2011 TO AUTHORIZE A VARIANCE TO ORDINANCE 00-14 SECTION PSS-17(2) (PRIVATE SEWAGE ORDINANCE) TO ALLOW A PRIVATE SEWAGE TANK, AND SEND TO THE LEGISLATURE FOR APPROVAL. NO SECOND NECESSARY. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

- b. **Human Services Planning Committee of January 18, 2011**
 - i. **Request Approval of the Community Engagement Document.**

MOTION BY RANDAL CHEVALIER TO CONCUR WITH THE MENOMINEE TRIBAL/MENOMINEE COUNTY HUMAN SERVICES PLANNING COMMITTEE RECOMMENDATIONS OF JANUARY 18, 2011 TO RECOMMEND TO THE MENOMINEE TRIBAL LEGISLATURE THAT EACH GOVERNMENT ENTITY REQUEST THAT ALL OF THEIR DEPARTMENTS COMPLETE THE COMMUNITY ENGAGEMENT DOCUMENT AND FORWARD IT TO JERRY WAUKAU. NO SECOND NECESSARY. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

- c. **Forestry Committee of January 24, 2011**
 - i. **Request Approval of LY’ 2011 Spring/Summer Silvicultural Prescriptions; &**

MOTION BY MYRNA WARRINGTON TO CONCUR WITH THE TRIBAL FORESTRY COMMITTEE RECOMMENDATIONS OF JANUARY 24, 2011 TO RECOMMEND TO THE LEGISLATURE TO APPROVE THE FOLLOWING LY 2011 SPRING/SUMMER SILVICULTURAL PRESCRIPTIONS: 1) CORRECTED 124-11-11-01, 112-11-12-01, 116-11-10-02, 111-11-09-01, 112-11-09-02, 114-11-09-03, 214-11-09-05, 216-11-09-06, 217-11-09-07, 999-11-02-01 EXCLUDING THE AREAS RECOMMENDED BY THE TRIBAL HISTORIC PRESERVATION OFFICER AND RESOLUTION 07-02, 999-11-21-01, 999-11-13-01, AND 216-

11-15-01 AS SUBMITTED BY THE MTE SILVICULTURIST AND REVIEWED BY THE MITW DEPARTMENT OF TRUST RESOURCES. NO SECOND NECESSARY. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

ii. Request Approval of the 2010 MTL Compliance Plan Annual Report.

MOTION BY MYRNA WARRINGTON TO CONCUR WITH THE TRIBAL FORESTRY COMMITTEE RECOMMENDATIONS OF JANUARY 24, 2011 TO APPROVE THE MTL COMPLIANCE PLAN 2010 ANNUAL REPORT AND FORWARD THIS TO THE LEGISLATURE FOR THEIR REVIEW. NO SECOND NECESSARY. THE MOTION CARRIED: 8 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 0 ABSENT.

23. 2010 Legislative Goals Progress Reports.

The Tribal Legislature updated each other on the progress of their Legislative Goals thus far.

24. As per LRP 5.03 – EXECUTIVE SESSION: (A) Legal – 1) Potential Sale of Property; 2) Grocery Store Project; & 3) Approval of Special Counsel Contract; (B) Personnel; & (C) Gaming – 1) Kenosha Project Update; & 2) MIGA Board Updates.

MOTION BY DAVID MILLER TO GO INTO EXECUTIVE SESSION. SECOND WAS MADE BY MYRNA WARRINGTON. THE MOTION CARRIED: 7 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 1 ABSENT (L. MILLER).

*****EXECUTIVE SESSION WAS NOT RECORDED*****

MOTION BY BRUCE PECORE TO COME OUT OF EXECUTIVE SESSION. SECOND WAS MADE BY LISA WAUKAU. THE MOTION CARRIED: 7 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 1 ABSENT (L. MILLER).

(A) Legal

1) Potential Sale of Property;

MOTION BY MYRNA WARRINGTON TO APPROVE THE GROCERY STORE USING THE SET ASIDE THAT WAS PREVIOUSLY APPROVED AS WELL ADDITIONAL FUNDING TO COME OUT OF RESERVES. SECOND WAS MADE BY LISA WAUKAU. THE MOTION CARRIED: 7 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 1 ABSENT (L. MILLER).

2) Grocery Store Project;

There was no motion made after coming out of Executive Session.

3) Approval of Special Counsel Contract; &

MOTION BY MYRNA WARRINGTON TO APPROVE THE CONTRACT WITH PARINS LAW FIRM S.C. (NOT TO EXCEED: JANUARY 28, 2011 – JANUARY 28, 2012). SECOND WAS MADE BY REBECCA ALEGRIA. THE MOTION CARRIED: 6 FOR, 0 OPPOSED, 1 ABSTENTION (PECORE), AND 1 ABSENT (L. MILLER).

PLEASE NOTE: Legislator Pecore did not qualify his abstention.

4) BIA APPEAL.

MOTION BY MYRNA WARRINGTON TO PROCEED WITH THE BIA (FMP) APPEAL. SECOND WAS MADE BY BRUCE PECORE. THE MOTION CARRIED: 6 FOR, 1 OPPOSED (CHEVALIER), 0

ABSTENTIONS, AND 1 ABSENT (L. MILLER).

PLEASE NOTE: Legislator Chevalier did not qualify his opposition.

(B) Personnel; &

There was no motion made after coming out of Executive Session.

(C) Gaming

1) Kenosha Project Update; &

MOTION BY REBECCA ALEGRIA TO EXTEND THE KMD CONSULTING SERVICES TERM SHEET DEADLINE TO FEBRUARY 18, 2011. SECOND WAS MADE BY DAVID MILLER. THE MOTION CARRIED: 7 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 1 ABSENT (L. MILLER).

2) MIGA Board Updates.

There was no motion made after coming out of Executive Session.

25. Resolution No. 10- ____ Approval of Attorney Contract.

MOTION BY MYRNA WARRINGTON TO APPROVE RESOLUTION NO. 10-79 APPROVAL OF ATTORNEY CONTRACT (*THOMAS PARINS*), WAIVE THE READING, AND AUTHORIZE THE SIGNATORIES. SECOND WAS MADE BY DAVID MILLER. THE MOTION CARRIED: 6 FOR, 0 OPPOSED, 1 ABSTENTION (PECORE), AND 1 ABSENT (L. MILLER).

PLEASE NOTE: Legislator Pecore did not qualify his abstention.

26. Adjournment.

MOTION BY LISA WAUKAU/REBECCA ALEGRIA TO ADJOURN. THE MOTION CARRIED: 7 FOR, 0 OPPOSED, 0 ABSTENTIONS, AND 1 ABSENT (L. MILLER).

Meeting adjourned at 9:07 P.M.

Respectfully submitted by,



Debra A. Bowman, Recorder/Transcriber
EXECUTIVE SECRETARY, CHAIRMAN'S OFFICE